

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

GUY W. PARKER,) Civil No. 08cv212 L(WMc)
Plaintiff,)
v.)
BETTY W. CLINGERMAN,)
Defendant.)

)

**ORDER STRIKING DOCUMENTS;
DENYING ENTRY OF DEFAULT;
and DENYING LEAVE TO FILE
DOCUMENTS ELECTRONICALLY**

Plaintiff Guy W. Parker, appearing *pro se*, has electronically filed several documents including some documents he designates as notices including a “Notice of Adjudicative Facts” [doc. #8]; a “Notice of Appearance” [doc. #10]; a “Notice of Early Neutral Evaluation Report 2” [doc. #11]; “Early Neutral Evaluation Report 3” [doc. #14]; and an affidavit in support of default [doc. #15]. In seeking leave to file documents electronically, plaintiff stated that he agreed to follow all rules and policies in the CM/ECF Administrative Policies and Procedures Manual (“CM/ECF Manual”). (Motion at 1 [doc. #4]). In granting plaintiff leave, the Court advised plaintiff to thoroughly review the CM/ECF Manual for correct filing procedures and to “comply with the ECF Policies and Procedures, the Civil Local Rules, and the Federal Rules of Civil Procedure notwithstanding his *pro se* status. Failure to comply with the Rules of Court may result in the document(s) being stricken from the record.” (Order filed February 12, 2008 [doc. #6]).

1 Plaintiff has improperly filed the documents listed above. The filings are not in
2 compliance with the CM/ECF Manual. Nor are the documents in compliance with the Federal
3 Rules of Civil Procedure and/or the Civil Local Rules.

4 Once a complaint is filed, service of process must be effectuated in conformity with the
5 Federal Rules of Civil Procedure. The Court has already been required to strike plaintiff's return
6 of service filed on February 8, 2008 because of deficiencies. (*See* Order filed February 12, 2008
7 [doc. #7]). Defendant filed a "Notice of Failure to Serve Defendant" on March 5, 2008 which
8 correctly sets forth the problems with plaintiff's attempted but incomplete service of process.
9 Plaintiff filed two documents entitled "response" to defendant's notice re: service on March 11,
10 2008 and on March 12, 2008 [doc. #15, 16] that appear to be plaintiff's attempt to have default
11 entered. The Court construes plaintiff's "affidavits" as requests for entry of default. Because
12 service has not been properly effectuated, entry of default against defendant is **D ENIED**.

13 Additionally, plaintiff's filings are not in proper form, are irrelevant at this point in the
14 proceedings, and are vexatious and burdensome. If a complaint is properly served, defendant
15 must answer the complaint or file an appropriate response to the complaint, *e.g.*, a motion to
16 dismiss. Only after the answer is filed or a motion to dismiss has been denied, does the
17 magistrate judge schedule an Early Neutral Evaluation conference. Plaintiff's repeated filing of
18 "early neutral evaluation reports" is not appropriate in the absence of an order of the court;
19 therefore, plaintiff's "Notice of Adjudicative Facts" [doc. #8]; a "Notice of Appearance" [doc.
20 #10]; a "Notice of Early Neutral Evaluation Report 2" [doc. #11]; and "Early Neutral Evaluation
21 Report 3" [doc. #14] are **STRICKEN** from the record.

22 If plaintiff seeks a ruling from the Court, he must file a motion as set forth in Civil Local
23 Rule 7.1. If an opposing party files a motion, plaintiff must serve an opposition to the motion,
24 again as set forth in Civil Local Rule 7.1. Further failure to comply with the Rules of Court may
25 lead to the imposition of sanction on plaintiff.

26 Finally, because plaintiff has abused the electronic filing protocol, the Court **VACATES**
27 its February 8, 2008 Order permitting plaintiff to file documents electronically. Accordingly, "all
28 documents submitted for filing to the Clerk's Office by parties appearing without an attorney

1 must be in legible paper form.” CM/ECF §2(b)

2 **IT IS SO ORDERED.**

3 DATED: March 13, 2008

4 
5 M. James Lorenz
United States District Court Judge

6
7 COPY TO:

8 HON. WILLIAM McCURINE
UNITED STATES MAGISTRATE JUDGE

9
10 ALL PARTIES/COUNSEL

11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28